THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 27635 of 1996

Dated: 24-10-2006

Between:

Mandem Bayya Reddy

..... PETITIONER

AND

The Joint Collector,
Chittoor and seven others.

.....RESPONDENTS

THE HON'BLE Ms. JUSTICE G.ROHINI

WRIT PETITION NO: 27635 of 1996

O R D E R:

This writ petition is filed seeking a writ of certiorari calling for the records relating to the proceedings of the first respondent-Joint Collector, Chittoor dated 01-11-1996 confirming the order of the second respondent dated 20-06-1994 and to quash the same.

It is claimed that the petitioner herein is the owner and possessor of the land to an extent of Ac.6.83 cents situated in Sy.No.1751 of Kurabalakota village, Chittoor District. It is stated that the said land was originally assigned in favour of one P.Venkataswamy on 11-03-1925. Since the patta granted in favour of P.Venkataswamy did not prohibit alienation, it appears that the original assignee alienated the said land to one P.Imam Saheb under a registered sale deed dated 26-05-1936 and thereafter, after several transactions, ultimately the petitioner purchased the said land for a valid consideration under registered sale deeds dated 20-06-1977 and 06-03-1978 from two persons namely Sami Reddy and Sanjeevi Reddy. While so, in the year 1990 the respondents 4 to 6 herein styling themselves as legal heirs of P.Venkataswamy attempted to interfere with the possession of the petitioner. Aggrieved by the same, the petitioner filed O.S.No.205 of 1990 on the file of the Principal District Munsif, Madanapalle for perpetual injunction and the same was decreed on 20-04-1995. In the meanwhile, the Mandal Revenue Officer-third respondent passed an order dated 15-06-1992 cancelling the assignment in favour of P.Venkataswamy on the ground that he had alienated the land in the year 1936 in violation of the conditions of D-Form patta. Aggrieved by

the same, one P.Gangulappa-the son and legal heir of P.Venkataswamy filed an appeal before the Revenue Divisional Officer-second respondent, Madanapalle. The said appeal was allowed and the order of the Mandal Revenue Officer was set aside with a direction to the Mandal Revenue Officer to make necessary entries in the village accounts by incorporating the names of the legal heirs of P.Venkataswamy-the original assignee. The said order passed by the second respondent dated 30-06-1994 was challenged by the writ petitioner by preferring a revision before the first respondent-Joint Collector, Chittoor contending that in the absence of any condition prohibiting alienation of the assigned land, the conclusion that the sale of the assigned land in favour of the Imam Saheb on 26-0-1936 was illegal is in-correct. However, the first respondent dismissed the revision petition by order dated 01-11-1996 confirming the findings recorded by the second respondent. Hence, this writ petition.

I have heard the learned counsel for both parties and perused the material on record.

The specific plea of the petitioner that before passing the order canceling the assignment in favour of the original assignee, no notice was issued to the petitioner, who is in actual possession and enjoyment of the land in question has not been contradicted by the respondents and no material has been placed before this Court to show that the petitioner was heard before passing the said order dated 15-06-1992.

Hence, on that ground alone, the order of Mandal Revenue Officer dated 15-06-1992 is liable to be set aside. The further contention raised by the petitioner that the land in question does not fell within the definition of “assigned land” under Section 2(1) of Act 9 of 1977 and consequently the provisions of the Act 9 of 1977 are not applicable requires consideration only on appreciation of the conditions of assignment by the competent authority. Since the said ground could not be raised before the Mandal Revenue Officer, the impugned orders cannot be upheld and the matter requires

reconsideration.

Accordingly, all the impugned orders are hereby set aside and the writ petition is disposed of with a direction to the third respondent to pass appropriate orders afresh in accordance with law after affording an opportunity to all the parties concerned particularly the writ petitioner and the respondents 4 to 8 herein to put forth their version. Till such time, *status quo* obtaining as on today as to the nature and possession of the land in question shall be maintained. No costs.

_____

G. ROHINI, J

Dated: 24-10-2006
KLP